

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SALEEM JAFFER JIWANI, #10620-078	§	
VS.	§	CIVIL ACTION NO. 6:05cv467
		CRIM. NO. 6:03cr63(01)
UNITED STATES OF AMERICA	§	

ORDER OF DISMISSAL

Petitioner Saleem Jaffer Jiwani, a prisoner confined at F.C.I. Bastrop, filed the above-styled and numbered petition for a writ of habeas corpus seeking to obtain an out-of-time appeal. The petition was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition should be dismissed because the Petitioner's criminal case was on appeal and Donald Francis Killingsworth had been appointed to represent him on appeal. The Petitioner filed a response, which was improvidently docketed as objections, wherein he stated that he was unaware that his criminal case was on appeal and that he had no objections to the dismissal of his petition.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice.

All motions by either party not previously ruled on are hereby denied.

So **ORDERED** and **SIGNED** this 26th day of January, 2006.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE